



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/981,389	10/17/2001	David Graumann	1020.P12451	6813

57035 7590 12/13/2006

KACVINSKY LLC
C/O INTELLEVATE
P.O. BOX 52050
MINNEAPOLIS, MN 55402

EXAMINER

FAULK, DEVONA E

ART UNIT	PAPER NUMBER
----------	--------------

2615

DATE MAILED: 12/13/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action
Before the Filing of an Appeal Brief**

Application No.

09/981,389

Applicant(s)

GRAUMANN, DAVID

Examiner

Devona E. Faulk

Art Unit

2615

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 04 December 2006 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires 6 months from the mailing date of the final rejection.
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: _____.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE


8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See attached sheet.

12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____

13. ☐ Other: _____


VIVIAN CHIN
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2600

Response to Arguments

1. Applicant's arguments filed 12/4/2006 have been fully considered but they are not persuasive.
2. The applicant asserts that prior art Birchfield teaches an acoustic source location technique that compares the time response of signals from two or more pairs of microphones but fails to disclose "at least one reflector having an acoustically reflective surface structured and arranged to reflect the acoustic waves in a direction of the first microphone and the second microphone". The examiner has set forth in the previous office action that "Birchfield teaches that in some applications it is desirable to determine the direction of a human speaker. A human speaker has ears, and the ears read on at least one acoustically reflective surface having an irregular shape and that the ear implicitly reflects in both directions". The examiner agrees that Birchfield teaches an acoustic source location technique that compares the time response of signals from tow or more pairs of microphones. The examiner disagrees with the applicant's assertion that Birchfield does not read on the "at least one reflector..." language. The examiner asserts that the applicant has disclosed, on page 7 of the specification, that a suitable reflector may be shaped like the outer ear of human beings, known as the pinnea. If the reflector may be shaped like the outer ear of human beings, the examiner interpreted that the reflector could be a human ear. The specification also discloses on page 5 that the left and right reflectors reflect waves into the microphones. The pinnea reflects incomings sounds. Furthermore, the specification does not disclose what the reflectors are, what the reflectors are made of

Art Unit: 2615

or that the reflectors reflect back to the microphones only. The claims do not recite how the reflector reflecting in the direction of the first and second microphone is essential to detecting a sound location. The examiner maintains that human ears would implicitly reflect in both directions. The examiner is maintaining the rejection set forth in the previous office action.